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EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H:A

Office Action Summary

Application No.

10/718,177

Applicant(s)

AASGAARD, A. L. PEPPER

Examiner

Amy R. Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-30, 33-35 and 37-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-30, 35 and 37-49 is/are rejected.
- 7) ☒ Claim(s) 33 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed March 11, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the plurality of fasteners disposed in the substrate. The issue of new matter arises in claims 19, 37, 45 and their depending claims. The fasteners, which are shown in the figures and discussed in the specification as being “disposed in the substrate”, are the eyelets 130. The specification states on Page 7, lines 4-5 that “magnets (140) may be provided along the perimeter.” The figures do not show magnets disposed in the substrate.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

2. Claims 21, 35, 38, 46 are objected to because of the following informalities:

Claim 21, lines 1-2 “the trunk” lacks antecedent basis in the claims.

Claim 21, lines 2-3 the “fasteners” have already been claimed; claim language should reflect this.

Claim 25, line 2 the “fasteners” have already been claimed; claim language should reflect this.

Claim 25, “the trunk lid” lacks antecedent basis in the claims.

Claim 38, line 2, it is unclear as to what Applicant is claiming using the terminology “clusters” and “pods” since these terms are not present in the specification and since the

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specification only describes the LED lights, 112 as being a plurality of LED lights. There is no mention of their arrangement. For purposes of prosecution, Examiner interprets claim 38 to describe a plurality of light emitting diodes in an arrangement, see paragraph 6 below.

Claim 46, line 2, it is unclear as to what Applicant is claiming using the terminology “clusters” and “pods” since these terms are not present in the specification and since the specification only describes the LED lights, 112 as being a plurality of LED lights. There is no mention of their arrangement. For purposes of prosecution, Examiner interprets claim 46 to describe a plurality of light emitting diodes in an arrangement, see paragraph 6 below.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23, 30, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Bump, Jr. et al. (U. S. Patent No. 5,398,437).

Bump, Jr. et al. teaches an emergency signaling device (10) for a vehicle (Fig. 1), comprising: a substrate (12) being disposed in the vehicle (Col 4, line 51-Col 5, line 13), the substrate folding between a folded position and an extended position and being removable from the vehicle to a location remote from the vehicle (Figs. 1 and 6, Col 4, line 51-Col 5, line 13), the substrate (12) including a front surface of non-reflective material (12, 15) having reflective material (16, 18, 22) coupled thereto in a pattern and a back surface (Col 3, lines 18-29, lines 55-

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63 and Col 4, lines 40-50); a plurality of fasteners (14) disposed in the substrate for facilitating attachment of the substrate to an object when the substrate is removed from the vehicle so that the back surface at least partially rests against the object (Col 3, lines 36-49 and Col 4, lines 6-17); and indicia (16) disposed on the substrate for conveying a message when the substrate is unfolded to the extended position, wherein, when the substrate is in the extended position, the indicia disposed on the substrate are positioned so as to be visible to motorists generally approaching at least one of the vehicle and the object (Col 2, lines 5-51 and Col 3, lines 55-63).

Bump, Jr. et al. teaches the emergency signaling device wherein the indicia comprise a pattern formed from the reflective material disposed on the substrate (Col 4, lines 40-50).

Bump, Jr. et al. teaches the emergency signaling device wherein the substrate comprises fasteners (14) for fastening the substrate to the trunk lid (Fig. 1, Col 3, lines 36-49, Col 4, line 64-Col 5, line 13) and within the trunk for unfolding the substrate to the extended position when the trunk lid is in the opened position (Col 3, lines 8-17).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-22, 24-29, 37-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bump, Jr. et al. in view of Saubolle (Canadian Patent Application 2,246,015A1).

Claims 14-22: Bump, Jr. et al. discloses an emergency signaling device (10), comprising: a flexible substrate (12) foldable between at least a folded position and an unfolded position

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(Figs. 1 and 2 and Col 4, lines 51-63), the flexible substrate including a front surface of non-reflective material (12, 15) having reflective material (18, 22) coupled thereto in a pattern (Fig. 2) and a back surface; a plurality of fasteners (14) disposed in the substrate for facilitating attachment of the emergency signaling device to an object so that the back surface at least partially rests against the object (Col 3, lines 36-49 and Col 4, lines 6-17); wherein the flexible substrate is folded to the folded state for storage and unfolded to the unfolded state for display of a message (Col 4, lines 51-63).

Bump, Jr. et al. discloses the emergency signaling device wherein the plurality of fasteners comprise magnetic fasteners (14).

Bump, Jr. et al. discloses the emergency signaling device wherein the flexible substrate is storable in a trunk of an automobile and is removable from the trunk of the automobile for use at a location remote from the automobile (Figs. 1 and 6, Col 4, line 51-Col 5, line 13).

Bump, Jr. et al. discloses the emergency signaling device wherein the trunk comprises a trunk lid (Fig. 1), and wherein the flexible substrate comprises fasteners (14) for fastening the substrate to the trunk lid (Fig. 1, Col 3, lines 36-49, Col 4, line 64-Col 5, line 13) and within the trunk for unfolding the substrate to the extended position when the trunk lid is in an opened position (Col 3, lines 8-17).

Bump, Jr. et al. does not disclose the emergency signaling device comprising a plurality of lights disposed on the flexible substrate within the reflective material, the plurality of lights for being illuminated to form indicia for displaying a message; wherein the plurality of lights comprise light emitting diodes; comprising a power supply for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery coupled to the substrate; wherein the battery is charged from an automobile electrical system; comprising a power supply

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for powering the plurality of lights, wherein the automobile comprises an electrical system, the power supply receiving electrical power from the electrical system.

Saubolle discloses an emergency signaling device (2, 4), comprising: a flexible substrate (2, 4) foldable between at least a folded position and an unfolded position (Figs. 2-5 and Page 2 of the specification, lines 5-23), the flexible substrate including a front surface of non-reflective material having reflective material (22, 24) coupled thereto in a pattern (Fig. 1) and a back surface; a plurality of fasteners (40) disposed on the substrate for facilitating attachment of the emergency signaling device to an object (Page 4 of the specification, lines 14-21); a plurality of lights (28) disposed on the flexible substrate within the reflective material (Page 3 of the specification, lines 21-31), the plurality of lights for being illuminated to form indicia for displaying a message (Fig. 1); wherein the plurality of lights comprise light emitting diodes (Page 3 of the specification, lines 21-31); comprising a power supply (12, 14) for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery (14, Page 4 of the specification, lines 5-8 and lines 31-34) coupled to the substrate (Fig. 1); wherein the battery is charged from an automobile electrical system (Page 4 of the specification, lines 31-34); comprising a power supply for powering the plurality of lights, wherein the automobile comprises an electrical system, the power supply receiving electrical power from the electrical system (Page 4 of the specification, lines 31-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Bump, Jr. et al. to have a plurality of lights disposed on the substrate, as taught by Saubolle, so that an approaching vehicle or person be better able to see the device in low light conditions by not only having reflective material but

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also having lights disposed on the substrate, attracting greater attention at a farther distance as the person or vehicle approaches a user.

Claims 24-29: Bump, Jr. et al. discloses the emergency signaling device as described above in paragraph 4.

Bump, Jr. et al. does not disclose the emergency signaling device wherein the indicia comprise at least one light disposed on the substrate; wherein the at least one light comprises a light emitting diode; comprising a power supply for providing electrical power to the light; wherein the power supply comprises a battery coupled to the substrate; wherein the vehicle includes an electrical system, and wherein the battery is charged from the electrical system; wherein the vehicle includes an electrical system, and wherein the power supply receives power from the electrical system.

Saubolle discloses an emergency signaling device (2, 4), comprising: a flexible substrate (2, 4) foldable between at least a folded position and an unfolded position (Figs. 2-5 and Page 2 of the specification, lines 5-23), the flexible substrate including a front surface of non-reflective material having reflective material (22, 24) coupled thereto in a pattern (Fig. 1) and a back surface; a plurality of fasteners (40) disposed on the substrate for facilitating attachment of the emergency signaling device to an object (Page 4 of the specification, lines 14-21); wherein indicia comprise at least one light (28) disposed on the substrate (Fig. 1); wherein the at least one light comprises a light emitting diode (28); comprising a power supply (12, 14, Page 4 of the specification, lines 5-8 and lines 31-34) for providing electrical power to the light; wherein the power supply comprises a battery coupled to the substrate (Page 4 of the specification, lines 5-8 and lines 31-34); wherein the vehicle includes an electrical system, and wherein the battery is charged from the electrical system (Page 4 of the specification, lines 5-8 and lines 31-34);

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wherein the vehicle includes an electrical system, and wherein the power supply receives power from the electrical system (Page 4 of the specification, lines 5-8 and lines 31-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Bump, Jr. et al. to have a plurality of lights disposed on the substrate, as taught by Saubolle, so that an approaching vehicle or person be better able to see the device in low light conditions by not only having reflective material but also having lights disposed on the substrate, attracting greater attention at a farther distance as the person or vehicle approaches a user.

Claims 37- 44: Bump, Jr. et al. discloses an emergency signaling device (10), comprising: a flexible substrate (12) foldable between at least a folded position and an unfolded position (Figs. 1 and 2 and Col 4, lines 51-63), the flexible substrate including a front surface of non-reflective material (12, 15) having reflective material (18, 22) coupled thereto in a pattern (Fig. 2) and a back of non-abrasive material (Col 3, lines 18-35); a plurality of magnetic fasteners (14) disposed in the substrate for facilitating attachment of the substrate to a metallic object so that the back of non-abrasive material at least partially rests against the metallic object (Fig. 3, Col 3, lines 36-49 and Col 4, lines 6-17); wherein the flexible substrate is folded to the folded state for storage and transportation and unfolded to the unfolded state for being attached to the metallic object via the magnetic fasteners for display of the warning (Fig. 1, Col 3, lines 36-63, Col 4, line 51-Col 5, line 13).

Bump, Jr. et al. discloses the emergency signaling device comprising a plurality of eyelets (20) disposed in the substrate along the perimeter of the substrate for facilitating attachment of the emergency signaling device to one of the metallic object and a non-metallic object (Col 3, line 64-Col 4, line 18 and Col 4, line 51-Col 5, line 13).

Bump, Jr. et al. discloses the emergency signaling device wherein the metallic object is an automobile (Fig. 1).

Bump, Jr. et al. does not disclose the emergency signaling device comprising a plurality of lights disposed on the flexible substrate within the reflective material, the plurality of lights for being illuminated to form indicia for displaying a warning; wherein the plurality of lights comprise light emitting diodes arranged and disposed in the flexible substrate; comprising a power supply for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery coupled to the substrate; wherein the battery is charged from an automobile electrical system; wherein the plurality of lights are arranged in the form of at least one arrow for displaying a warning for directing an oncoming automobile away from the metallic object.

Saubolle discloses an emergency signaling device comprising: a flexible substrate (2, 4) foldable between at least a folded position and an unfolded position (Figs. 2-5), the flexible substrate including a front surface of non-reflective material (2, 4) having reflective material (22, 24) coupled thereto in a pattern (Fig. 1) and a back of non-abrasive material (Page 4 of the specification, lines 14-21); a plurality of magnetic fasteners (40) disposed on the substrate for facilitating attachment of the substrate to a metallic object so that the back of non-abrasive material at least partially rests against the metallic object (Page 4 of the specification, lines 14-21); wherein the flexible substrate is folded to the folded state for storage and transportation and unfolded to the unfolded state for being attached to the metallic object via the magnetic fasteners for display of the warning (Page 2 of the specification, lines 5-20 and the Abstract); a plurality of lights (28) disposed on the flexible substrate within the reflective material (22), the plurality of lights for being illuminated to form indicia for displaying a warning (Fig. 1); wherein the

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plurality of lights comprise light emitting diodes (28) arranged and disposed in the flexible substrate (Fig. 1); comprising a power supply (12, 14) for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery (14) coupled to the substrate; wherein the battery is charged from an automobile electrical system (Page 4 of the specification, lines 5-8 and lines 31-34); wherein the plurality of lights are arranged in the form of at least one arrow for displaying a warning for directing an oncoming automobile away from the metallic object (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Bump, Jr. et al. to have a plurality of lights disposed on the substrate, as taught by Saubolle, so that an approaching vehicle or person be better able to see the device in low light conditions by not only having reflective material but also having lights disposed on the substrate, attracting greater attention at a farther distance as the person or vehicle approaches a user.

Claims 45-49: Bump, Jr. et al. discloses a portable emergency signaling device (10), comprising: a flexible substrate (12) foldable between at least a folded position and an unfolded position (Figs. 1 and 2 and Col 4, lines 51-63), the flexible substrate including a front surface of non-reflective material (12, 15) having reflective material (18, 22) coupled thereto in a pattern (Fig. 2) and a back of non-abrasive material (Col 3, lines 18-35); a plurality of magnetic fasteners (14) disposed in the substrate for facilitating attachment of the substrate to a metallic object so that the back of non-abrasive material at least partially rests against the metallic object (Fig. 3, Col 3, lines 36-49 and Col 4, lines 6-17); a plurality of eyelets (20) disposed in the substrate along the perimeter of the substrate for facilitating attachment of the emergency signaling device to the object (Col 3, line 64-Col 4, line 18 and Col 4, line 51-Col 5, line 13); and

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wherein the flexible substrate is folded to the folded state for storage and transportation and unfolded to the unfolded state for being attached to the metallic object via the magnetic fasteners for display of the warning (Fig. 1, Col 3, lines 36-63, Col 4, line 51-Col 5, line 13).

Bump, Jr. et al. does not disclose the emergency signaling device comprising a plurality of lights disposed on the flexible substrate within the reflective material, the plurality of lights for being illuminated to display a warning; wherein the plurality of lights comprise light emitting diodes arranged and disposed in the flexible substrate; comprising a power supply for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery coupled to the substrate; wherein the plurality of lights are arranged in the form of at least one arrow for displaying a warning for directing an oncoming automobile away from the metallic object.

Saubolle discloses an emergency signaling device comprising: a flexible substrate (2, 4) foldable between at least a folded position and an unfolded position (Figs. 2-5), the flexible substrate including a front surface of non-reflective material (2, 4) having reflective material (22, 24) coupled thereto in a pattern (Fig. 1) and a back of non-abrasive material (Page 4 of the specification, lines 14-21); a plurality of magnetic fasteners (40) disposed on the substrate for facilitating attachment of the substrate to a metallic object so that the back of non-abrasive material at least partially rests against the metallic object (Page 4 of the specification, lines 14-21); wherein the flexible substrate is folded to the folded state for storage and transportation and unfolded to the unfolded state for being attached to the metallic object via the magnetic fasteners for display of the warning (Page 2 of the specification, lines 5-20 and the Abstract); a plurality of lights (28) disposed on the flexible substrate within the reflective material (22), the plurality of lights for being illuminated to form indicia for displaying a warning (Fig. 1); wherein the

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plurality of lights comprise light emitting diodes (28) arranged and disposed in the flexible substrate (Fig. 1); comprising a power supply (12, 14) for providing electrical power to the light emitting diodes; wherein the power supply comprises a battery (14) coupled to the substrate; wherein the plurality of lights are arranged in the form of at least one arrow for displaying a warning for directing an oncoming automobile away from the metallic object (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Bump, Jr. et al. to have a plurality of lights disposed on the substrate, as taught by Saubolle, so that an approaching vehicle or person be better able to see the device in low light conditions by not only having reflective material but also having lights disposed on the substrate, attracting greater attention at a farther distance as the person or vehicle approaches a user.

Allowable Subject Matter

7. Claims 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or suggest an emergency signaling device wherein when the hazard flasher system is turned on and a remote trunk release for causing the trunk lid to move to the opened position, and wherein the substrate is unfolded to the extended

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position when the remote trunk release causes the trunk lid to move to the opened position while the hazard flasher system is on in combination with the remaining limitations of the claims.

Response to Arguments

9. Applicant's arguments with respect to claims 14-30, 33-35, 37-49 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose emergency signaling devices Hull et al. (U. S. Patent No. 5,245,943), O'Connell et al. (U. S. Patent No. 5,224,439), Chan (U. S. Patent No. 5,076,196), Mosch (U. S. Patent No. 4,044,482), Mosch (U. S. Patent No. 3,594,938), and Von Kreidner et al. (U. S. Patent No. 3,255,725).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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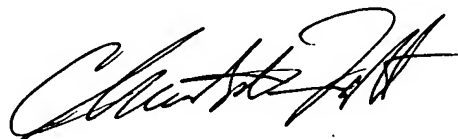
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
April 26, 2005



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